IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 29TH NOVEMBER 2006 / 8TH AGRAHAYANA 1928

Crl.MC.No. 3908 of 2006()

CRIME NO.321/98 OF THE ADOOR POLICE STATION.

PETITIONER: ACCUSED

ASHOKAN, AGED 36 YEARS,
D/O.CHELLAPPAN, MULLASSERY HOUSE,
EZHAMKULAM VILLAGE, ADOOR TALUK,
PATHANAMTHITTA.

BY ADV. SRI.K.MADHUSOODHANAN NAIR

RESPONDENTS:

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1. STATE OF KERALA,
BY CIRCLE INSPECTOR OF POLICE, ADOOR,
REP. BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. DEPUTY SUPERINTENDENT OF POLICE,
C.B.C.I.D., KOTTAYAM, REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI. PUZHAKKARA MUHAMMED.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3908 OF 2006

Dated this the 29th day of November, 2006

ORDER

The petitioner apprehends that he may be forced to face prosecution unnecessarily in Crime No.321/98 of the Adoor Police Station. He has therefore come to this Court with this application under Sec.482 of the Cr.P.C. for issue of appropriate directions.

2. In the F.I.R. registered, he is not an accused. Investigation was conducted by the local police who filed a charge sheet. In the chage sheet, he has not been arrayed as an accused. The learned Magistrate has committed the case to the Court of Sessions and the Court of Session is seized of the matter. The petitioner has not been arrayed as an accused by the Sessions Court also.

3. Why then has the petitioner come to this Court? What is the nature of relief that he wants? The learned counsel for the petitioner submits that on the basis of a further investigation conducted by the C.B.C.I.D. - the 2nd respondent herein, the petitioner is likely to be made an

accused. He has not been made an accused so far. If he is made an accused, it is for the Magistrate to consider whether process must be issued to him. It is for him thereafter to appear before the learned Magistrate and if the learned Magistrate commits the case against the petitioner also to the Court of Session, the Court of Session must certainly hear the petitioner and decide under Sec.227/228 of the Cr.P.C. whether charges are liable to be framed against the petitioner. I find no justification for the petitioner rushing to this Court at this point of time when he has not been summoned either by the committal court or by the Court of Session. I am of opinion that the petitioner is not entitled for any relief at this stage. If the petitioner is made an accused and committed to stand trial before the Court of Sessions, he can certainly urge before the learned Sessions Judge that charges are not liable to be framed against him and he is entitled to be discharged. If he is aggrieved by the decision of the learned Magistrate at that point of time, needless to say that he will have the right to challenge such order by initiating appropriate proceedings.

4. With the above observations, this Crl.M.C. is dismissed.

Sd/-
(R. BASANT, JUDGE)

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//true copy// P.S. To Judge